

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MMCA GROUP, LTD.,

No. C-06-7067 MMC

Plaintiffs,

**ORDER GRANTING IN PART AND  
DENYING IN PART PLAINTIFF'S  
ADMINISTRATIVE MOTION TO FILE  
DOCUMENTS UNDER SEAL**

v.

HEWLETT-PACKARD COMPANY, et al.,

Defendants.

Before the Court is plaintiff's "Administrative Motion to File Documents under Seal," filed January 30, 2009, by which plaintiff seeks to file under seal certain documents submitted in support of its opposition to defendant PICA Corporation's ("PICA") motion for summary judgment, or in the alternative, partial summary judgment. PICA has filed opposition. Having read and considered the papers filed in support of and in opposition to the motion, the Court rules as follows.

1. With respect to the Declaration of Thomas Byrne ("Byrne Declaration") and Exhibits 1, 6, and 7 thereto, the Declaration of Morgan Cherry ("Cherry Declaration") and Exhibits 2-14 thereto, the Declaration of Lau Geckler, the Declaration of Jorge Barahona, the Declaration of Pedro Martinez, the Declaration of Aldo Alvarez, the Declaration of Robert Creswell ("Creswell Declaration") and Exhibits 1 and 3-9 thereto, Exhibits 5-11 and 14-23 to the Declaration of Frederick J. Geonetta in Opposition to Defendant PICA's Motion ("Geonetta Summary Judgment Declaration"), and the unredacted version of plaintiff's

1 memorandum in opposition to PICA's motion for summary judgment, or in the alternative,  
2 partial summary judgment,<sup>1</sup> the motion is GRANTED.

3 2. With respect to Exhibit 2 to the Creswell Declaration, plaintiff states "defendant  
4 PICA and possibly defendant HP may seek" to have such document filed under seal. (See  
5 Geonetta Decl. in Support of Admin. Mot. to Seal ("Geonetta Sealing Declaration") ¶ 8.)  
6 Under the Local Rules of this District, where a party seeks to file under seal any material  
7 designated as confidential by another party, the submitting party must file a motion for a  
8 sealing order. See Civ. L.R. 79-5(d). "Within five days thereafter, the designating party  
9 must file with the Court and serve a declaration establishing that the designated information  
10 is sealable, and must lodge and serve a narrowly tailored proposed sealing order, or must  
11 withdraw the designation of confidentiality." Id.

12 Here, PICA has not filed a responsive declaration, and the responsive declaration of  
13 defendant Hewlett-Packard Company ("HP") fails to establish "that the designated  
14 information is sealable." See id. Accordingly, with respect to Exhibit 2 to the Creswell  
15 Declaration, the motion is DENIED.

16 3. With respect to Exhibits 2, 3, 4, and 5 to the Byrne Declaration and Exhibit 1 to  
17 the Cherry Declaration, the motion is DENIED, for the reason that plaintiff no longer seeks  
18 to file such documents under seal. (See Geonetta Sealing Decl. ¶ 5.)

19 4. With respect to Exhibits 8-12 to the Byrne Declaration, Exhibit 1 to the Barahona  
20 Declaration, and the Geonetta Summary Judgment Declaration, the motion is DENIED, for  
21 the reason that plaintiff has failed to file a declaration establishing that such documents are  
22 sealable. See Civ. L.R. 79-5(b)(1). The Court, however, will afford plaintiff an opportunity  
23 to supplement its showing with respect to said documents.

24 5. With respect to Exhibits 1-4 and 12-13 to the Geonetta Summary Judgment  
25 Declaration, the motion is DENIED, for the reason that plaintiff's statement that the  
26 Geonetta Summary Judgment Declaration "contains a number of documents produced by

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28 <sup>1</sup>On January 30, 2009, plaintiff filed a redacted version of its memorandum in the public record.

1 the parties over the course of the litigation, most of which are designated by one or more  
 2 parties as either Confidential or for Attorneys' Eyes Only" (see Geonetta Sealing Decl. ¶ 9)  
 3 is insufficient to establish the documents are sealable. See, e.g., Civ. L.R. 79-5(a)  
 4 (providing "[a] stipulation, or a blanket protective order that allows a party to designate  
 5 documents as sealable, will not suffice to allow the filing of documents under seal").<sup>2</sup> The  
 6 Court, however, will afford plaintiff an opportunity to supplement its showing with respect to  
 7 said documents.

8 The Clerk shall file under seal all of the above-referenced documents found to be  
 9 sealable. If plaintiff wishes the Court to consider any document referenced in paragraph 2  
 10 or paragraph 3, supra, plaintiff shall file such document in the public record no later than  
 11 February 13, 2009. If plaintiff wishes the Court to consider any document referenced in  
 12 paragraph 4 or paragraph 5, supra, plaintiff, no later than February 13, 2009, shall either  
 13 file such document in the public record or file a renewed administrative motion to seal  
 14 accompanied by a declaration establishing such document is sealable.

15 **IT IS SO ORDERED.**

16 Dated: February 9, 2009

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 18 MAXINE M. CHESNEY  
 19 United States District Judge  
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27 <sup>2</sup>With respect to Exhibits 5-11 and 14-23 to the Geonetta Summary Judgment  
 28 Declaration, HP has filed a declaration establishing such documents are sealable. (See  
 Smart Decl. ¶¶ 4-5.)